

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARIO GOMEZ

Plaintiff,

ANSWER

-against-

07 CIV. 9310 (CLB)(GAY)

VILLAGE OF SLEEPY HOLLOW, DETECTIVE  
JOSE QUINOY in his individual and official  
capacity, POLICE OFFICER ELDRYK EBEL in  
his individual and official capacity, POLICE  
OFFICER MIKE GASKER in his individual and  
official capacity, POLICE OFFICER RICHARD  
D'ALLESANDRO in his individual and official  
capacity, LIEUTENANT BARRY CAMPBELL in  
his individual and official capacity, LIEUTENANT  
GABRIEL HAYES in his individual and official  
capacity, SERGEANT WOOD in his individual and  
official capacity, CHIEF OF POLICE JIMMY  
WARREN in his individual and official capacity,  
and POLICE OFFICERS JOHN DOES 1 – 4,

Defendants.

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Defendants, VILLAGE OF SLEEPY HOLLOW, DETECTIVE JOSE QUINOY in his  
individual and official capacity, POLICE OFFICER ELDRYK EBEL in his individual and  
official capacity, POLICE OFFICER MIKE GASKER in his individual and official capacity,  
POLICE OFFICER RICHARD D'ALLESANDRO in his individual and official capacity,  
LIEUTENANT BARRY CAMPBELL in his individual and official capacity, LIEUTENANT  
GABRIEL HAYES in his individual and official capacity, SERGEANT WOOD in his  
individual and official capacity, CHIEF OF POLICE JIMMY WARREN in his individual and  
official capacity, and POLICE OFFICERS JOHN DOES 1 – 4, by their attorneys, MIRANDA  
SOKOLOFF SAMBURSKY SLONE VERVENIOTIS LLP, answering the plaintiff's

Complaint, sets forth, upon information and belief, the following:

**INTRODUCTION AND GENERAL ALLEGATIONS**

1. Deny each and every allegation contained in paragraph "1" of the complaint.
2. Deny each and every allegation contained in paragraph "2" of the complaint.
3. Deny each and every allegation contained in paragraph "3" of the complaint.
4. Deny each and every allegation contained in paragraph "4" of the complaint.
5. Deny each and every allegation contained in paragraph "5" of the complaint.
6. Deny each and every allegation contained in paragraph "6" of the complaint.
7. Deny each and every allegation contained in paragraph "7" of the complaint.
8. Deny each and every allegation contained in paragraph "8" of the complaint.

**JURISDICTION AND VENUE**

9. Deny each and every allegation contained in paragraph "9" of the complaint and respectfully refer all questions of law to the Court for adjudication.
10. Deny each and every allegation contained in paragraph "10" of the complaint and respectfully refer all questions of law to the Court for adjudication.

**PARTIES**

11. Deny having knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph "11" of the complaint.
12. Deny having knowledge and information sufficient to form a belief as to the truth of the allegations contained in "12" paragraph of the complaint.
13. Deny each and every allegation contained in paragraph "13" of the complaint.
14. Deny each and every allegation contained in paragraph "14" of the complaint.

15. Deny each and every allegation contained in paragraph "15" of the complaint.
16. Deny each and every allegation contained in paragraph "16" of the complaint.
17. Deny each and every allegation contained in paragraph "17" of the complaint.
18. Deny each and every allegation contained in paragraph "18" of the complaint.

**STATEMENT OF FACTS**

19. Deny each and every allegation contained in paragraph "19" of the complaint.
20. Deny each and every allegation contained in paragraph "20" of the complaint.
21. Deny each and every allegation contained in paragraph "21" of the complaint.
22. Deny each and every allegation contained in paragraph "22" of the complaint.
23. Deny each and every allegation contained in paragraph "23" of the complaint.
24. Deny each and every allegation contained in paragraph "24" of the complaint.
25. Deny each and every allegation contained in paragraph "25" of the complaint.
26. Deny each and every allegation contained in paragraph "26" of the complaint.
27. Deny each and every allegation contained in paragraph "27" of the complaint.
28. Deny each and every allegation contained in paragraph "28" of the complaint.
29. Deny each and every allegation contained in paragraph "29" of the complaint.
30. Deny each and every allegation contained in paragraph "30" of the complaint  
and respectfully refer all questions of law to the Court for adjudication.
31. Deny each and every allegation contained in paragraph "31" of the complaint  
and respectfully refer all questions of law to the Court for adjudication.

32. Deny each and every allegation contained in paragraph “32” of the complaint and respectfully refer all questions of law to the Court for adjudication.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**42 U.S.C. § 1983 - EXCESSIVE USE OF FORCE**

33. As and for a response to the second paragraph “32” of plaintiff’s complaint, defendants repeat and reallege each and every allegation contained in paragraphs “1” through “32” of this answer with the same force and effect as if fully set forth at length herein.
34. Deny each and every allegation contained in paragraph “33” of the complaint.
35. Deny each and every allegation contained in paragraph “34” of the complaint.
36. Deny each and every allegation contained in paragraph “35” of the complaint.
37. Deny each and every allegation contained in paragraph “36” of the complaint.
38. Deny each and every allegation contained in paragraph “37” of the complaint.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**False Arrest**

39. As and for a response to paragraph “38” of plaintiff’s complaint, defendants repeat and reallege each and every allegation contained in paragraphs “1” through “37” of this answer with the same force and effect as if fully set forth at length herein.
40. Deny each and every allegation contained in paragraph “39” of the complaint.
41. Deny each and every allegation contained in paragraph “40” of the complaint.
42. Deny each and every allegation contained in paragraph “41” of the complaint.
43. Deny each and every allegation contained in paragraph “42” of the complaint

**AS AND FOR A THIRD CAUSE OF ACTION**

**False Imprisonment**

- 44. As and for a response to paragraph "43" of plaintiff's complaint, defendants repeat and reallege each and every allegation contained in paragraphs "1" through "42" of this answer with the same force and effect as if fully set forth at length herein.
- 45. Deny each and every allegation contained in paragraph "44" of the complaint.
- 46. Deny each and every allegation contained in paragraph "45" of the complaint.
- 47. Deny each and every allegation contained in paragraph "46" of the complaint.
- 48. Deny each and every allegation contained in paragraph "47" of the complaint.

**AS AND FOR A FOURTH CAUSE OF ACTION**

**Malicious Prosecution**

- 49. As and for a response to paragraph "48" of plaintiff's complaint, defendants repeat and reallege each and every allegation contained in paragraphs "1" through "47" of this answer with the same force and effect as if fully set forth at length herein.
- 50. Deny each and every allegation contained in paragraph "49" of the complaint.
- 51. Deny each and every allegation contained in paragraph "50" of the complaint.
- 52. Deny each and every allegation contained in paragraph "51" of the complaint.
- 53. Deny each and every allegation contained in paragraph "52" of the complaint.

**AS AND FOR A FIFTH CAUSE OF ACTION**  
**42 U.S.C. § 1983 - Municipal Violations**

54. As and for a response to paragraph “53” of plaintiff’s complaint, defendants repeat and reallege each and every allegation contained in paragraphs “1” through “52” of this answer with the same force and effect as if fully set forth at length herein.
55. Deny each and every allegation contained in paragraph “54” of the complaint.
56. Deny each and every allegation contained in paragraph “55” of the complaint.
57. Deny each and every allegation contained in paragraph “56” of the complaint.
58. Deny each and every allegation contained in paragraph “57” of the complaint, including all of its subparts.
59. Deny each and every allegation contained in paragraph “58” of the complaint.
60. Deny each and every allegation contained in paragraph “59” of the complaint.
61. Deny each and every allegation contained in paragraph “60” of the complaint.
62. Deny each and every allegation contained in paragraph “61” of the complaint.
63. Deny each and every allegation contained in paragraph “62” of the complaint.
64. Deny each and every allegation contained in paragraph “63” of the complaint.
65. Deny each and every allegation contained in paragraph “64” of the complaint.

**AS AND FOR A SIXTH CAUSE OF ACTION**  
**42 U.S.C. § 1985**

66. As and for a response to paragraph “65” of plaintiff’s complaint, defendants repeat and reallege each and every allegation contained in paragraphs “1”

through “64” of this answer with the same force and effect as if fully set forth at length herein.

- 67. Deny each and every allegation contained in paragraph “66” of the complaint.
- 68. Deny each and every allegation contained in paragraph “67” of the complaint.
- 69. Deny each and every allegation contained in paragraph “68” of the complaint.
- 70. Deny each and every allegation contained in paragraph “69” of the complaint.
- 71. Deny each and every allegation contained in paragraph “70” of the complaint.
- 72. Deny each and every allegation contained in paragraph “71” of the complaint.

**AS AND FOR A SEVENTH CAUSE OF ACTION**

- 73. As and for a response to paragraph “72” of plaintiff’s complaint, defendants repeat and reallege each and every allegation contained in paragraphs “1” through “71” of this answer with the same force and effect as if fully set forth at length herein.
- 74. Deny each and every allegation contained in paragraph “73” of the complaint.
- 75. Deny each and every allegation contained in paragraph “74” of the complaint.
- 76. Deny each and every allegation contained in paragraph “75” of the complaint.

**AFFIRMATIVE DEFENSES:**

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

- 77. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

78. At all times relevant to the acts alleged in the complaint, defendants, their agents and officials, acted reasonably, properly, and in the lawful exercise of their discretion. Therefore, they are entitled to governmental immunity from liability.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

79. There was probable cause for plaintiff's arrest and detention.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

80. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and was not the proximate result of any act of the defendants.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

81. That the individual defendants are entitled to qualified immunity.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

82. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have they violated any Act of Congress providing for the protection of civil rights.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

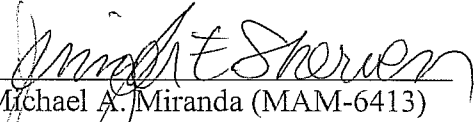
83. No policy, practice, or procedure of the Village of Sleepy Hollow deprived plaintiff of any constitutional rights.



**WHEREFORE**, defendants request judgment dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: Mineola, New York  
December 5, 2007

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